



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

May 8, 2023

Re: JIC Advisory Opinion 2023-12.

Dear Judge :

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: you would like to establish and participate in a Teen Court program. You would like to know if your participation would be appropriate due to a business contract your wife has with the County Board of Education.

You stated that WV Code § 49-4-716 deals with the establishment of Teen Courts, which are a voluntary pre-petition diversion court wherein a teen with behavioral issues may agree to participate to save themselves the costs and consequences of an actual court case. Such a court makes use of volunteer members of the bar to mentor a teen playing the role of prosecutor, another playing the role of defense counsel, and others serving as a jury. Another attorney (or judge) serves the role of judge over the program.

The Commission has reviewed the Code of Judicial Conduct to address the question which you have raised. Specifically, the Commission looked at Rules 3.1(C) and 3.7.

Rule 3.1 Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

(C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;

Rule 3.7 Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

(A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic

organizations not conducted for profit, including but not limited to the following activities:

...

- (6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:
 - (a) will be engaged in proceedings that would ordinarily come before the judge; or
 - (b) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

The Commission is of the opinion that there would be no conflict with you establishing and participating in a Teen Court in your circuit.

We hope this opinion fully addresses the issue which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,



Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/bjl